INFORMATION LETTER

Not for Publication — NATIONAL CANNERS ASSOCIATION — For Members Only

No. 1412 — Washington, D. C. — November 8, 1952

N.C.A. Speakers Address State Association Meetings

N.C.A. officers and staff this week addressed the annual convention of the Iowa-Nebraska Canners Association and the fall meeting of the Illinois Canners Association.

President Fred C. Heinz told the Illinois canners that scientific research has contributed largely to the growth of the canning industry. "By keeping our sights on science and technology, we have elevated the living and health standards of this nation and the world," he said.

"Let us never forget that the growth of canned foods to their present high public acceptance and esteem today is the direct result of our continued application of science and research to the quality control of their production."

Secretary Carlos Campbell described to the Iowa-Nebraska canners how laws of Congress are interpreted, amplified, and administered by the executive departments of the federal government under the direction of the President. Mr. Campbell said that the N.C.A. staff has won respect throughout the government for its professional and scientific standing, with the result that through conferences much of the confusion and unworkable features of government regulations are eliminated before issuance.

Dr. Howard L. Stier, Director of the N.C.A. Division of Statistics, addressed the Illinois canners on "Operations Analysis—A Management Tool for Canners."

Wage Stabilization Exemptions

The Wage Stabilization Board has published a set of official interpretations on the "small business" and "agricultural labor" exemptions which were enacted by Congress in the Defense Production Act Amendments of 1952 (see INFORMATION LETTERS of July 3, page 211, and August 2, page 229). The interpretations indicate what adjustments may be put into effect without prior approval of the WSB. The interpretations were published October 1 as Interpretation Bulletin 22.

Government Finality Clause

The disputes article for use in all Department of Defense procurement contracts has been revised by the Munitions Board.

Decisions of the contracting officer or head of the procuring department on questions of fact will remain final unless determined by a court of competent jurisdiction to have been "fraudulent, arbitrary, capricious or so grossly erroneous as necessarily to imply bad faith."

The revision of the standard disputes article was made necessary by a provision in the Department of Defense Appropriation Act of 1953, which prohibited the continued use in Defense Department procurement contracts of the clause then employed.

The National Canners Association, along with other trade organizations

(Please turn to page 299)

Metal Can Expansion Goals

Goals for expansion of the metal can manufacturing industry have been set by the Defense Production Administration. The "expansion goals" call for increased production capacity and adoption of tin conservation practices.

The goal for metal cans is an annual rate of 4,700,000 tons of metal can shipments by January 1, 1956, representing an increase of 800,000 tons. The expanded facilities would produce a number of specialized cans required exclusively for military purposes, such as ration cans.

The goal for metal can manufacture-tin conservation has been revised to $31,000,000 of capital investment to convert can manufacturing facilities by January 1, 1956, to the manufacture of cans using less tin. Some of the tin conservation practices are only on a pilot line basis, DPA said.

Expansion goals provide a guide to government and industry on the need for assistance, through issuance of certificates of necessity for accelerated tax amortization or other means, in the achievement of plant expansion to support defense activities.

To date, DPA said, no tax amortization toward filling either of these goals has been approved.

Wage-Hour Division Limits Scope of 7(b)(3) Exemption

The Administrator of the Wage and Hour Division has recently amended the terms of the August 24, 1940, determination that the first processing or canning of perishable fresh fruits or vegetables is an industry of a seasonal nature within the meaning of Section 7(b)(3) of the Fair Labor Standards Act.

The Administrator has described the amendment as "intended only to clarify the application" of the August 24, 1940, determination that the first processing or canning of perishable or seasonal fresh fruits or vegetables is a seasonal industry. The effect of the amendment, however, is to deny the availability of the 7(b)(3) exemption to operations on byproducts which the industry has heretofore felt justified in considering as exempt operations.

As a result of various court decisions, the Administrator previously had found it necessary to modify his position on the application of the 7(c) exemption to a canner's or processor's byproduct operations. This revised view was announced in a statement of general policy or interpretation issued August 30 (see INFORMATION LETTER of September 6, page 251). The Administrator's statement acknowledged that byproduct operations carried on in the same place of employment as the primary processing operations are exempt under Section 7(c). Byproduct operations carried on in a place of employment separate from that of the primary processing operations were declared to be not subject to the 7(c) exemption.

The more recent statement by the Administrator is an effort to make clear that the Division does not accept the court decisions which have affirmed the availability of the 7(c) exemption to byproduct operations performed in a single place of employment as controlling in respect to the 7(b)(3) exemption. In the Administrator's view, therefore, the 7(b)(3) exemption is inapplicable to byproduct operations whether performed in the same place of employment as the principal processing operations or in a separate place of employment.

Following is the text of the amended statement by the Administrator as

(Please turn to page 300)

STATISTICS

Expenditures for New Plant and Equipment in 1952

Expenditures for new plant and equipment by firms in the food and kindred products industries in 1952 will be 7 percent below 1951, according to a joint survey by the Securities and Exchange Commission and the U. S. Department of Commerce.

However, this downward shift from last year is limited to only one other manufacturing industry—paper and allied products, for which capital investments are expected to be 14 percent below 1951. All other manufacturing industries expect to invest more in new plant and equipment in 1952 than in 1951.

Capital investments by manufacturers of nondurable goods are expected to average 14 percent more than last year, and manufacturers of durable goods expect to exceed last year's capital outlays by an average of 15 percent.

Expenditures on New Plant and Equipment by U. S. Business, 1948-51

Year	All Manufacturing	Nondurable goods industries	Food and kindred products
	(millions of dollars)		
1948	9,134	5,651	721
1949	7,149	4,555	626
1950	7,491	4,356	523
1951	11,130	5,962	657
1952*	12,808	6,808	609
Percent change, 1951 to 1952	+15	+14	−7

* Estimates for the third and fourth quarters are based on anticipated capital expenditures as reported by business in August, 1952. All data exclude expenditures of agricultural business and outlays charged to current account.

Sales and Inventories

Sales by manufacturers and wholesalers increased substantially in September, according to reports by the Office of Business Economics, U. S. Department of Commerce.

Sales of manufacturers rose 7 percent after seasonal adjustment to almost equal the high of last April. Deliveries of nondurable goods were up 5 percent over August, with the food and petroleum industries sharing the bulk of the rise.

New orders placed with manufacturers exceeded deliveries during September by $300 million. The uptrend in backlogs for nondurables which began in the early summer continued with a $200 million addition.

Wholesalers' sales during September showed seasonally adjusted increases of 12 percent for durable goods and 8 percent for nondurable goods. Among nondurable goods, seasonally adjusted increases not far from 10 percent were shown in wholesale sales of beers, wines and liquors, drugs, paper, and tobacco. Wholesale food sales were 7 percent over August.

Wholesale inventories of food, beers, wines, liquors, and tobacco were slightly higher in September than the previous month.

Canned Foods Price Index

The N.C.A. canned foods price index for October showed an increase of 0.6 points from September and stood at 107.2 percent of the 1947-49 average. Following are the N.C.A. indexes for the past six months:

N.C.A. Canned Foods Price Index

(1947-49 = 100)

Month	Index
May	104.8
June	103.9
July	104.6
August	105.5
September	r106.6
October	107.2

r Revised.

DEFENSE

Certificates of Necessity

Certificates of necessity for accelerated tax amortization granted to firms in the food and kindred products industries are insignificant in the defense facilities expansion program, with respect to both the number of certificates issued and the percentage of tax amortization allowed.

An industry-by-industry summary of the defense facilities expansion program reports that by September 5 the Defense Production Administration had issued 13,602 certificates for facilities costing $23,250,796,000, with 58.4 percent of this cost being allowed for accelerated amortization.

For the food and kindred products industries, DPA has issued 48 certificates for facilities costing $11,204,000, with 34.8 percent of this cost being allowed for accelerated amortization. Of 48 industries listed by DPA, this is the third lowest percentage of accelerated amortization allowed.

For production of facilities for "canned fruits, vegetables, soups, preserves, jams, and jellies," DPA has issued 32 certificates for facilities costing $6,050,000, with 34.8 percent of this cost being allowed for accelerated amortization.

[See item headed "Expenditures for New Plant and Equipment in 1952" on this page.]

Four major programs account for almost one-third of the certificates of necessity and 60 percent of the total volume of accelerated tax amortization approved. These are the transportation, iron and steel, public utilities, and chemicals industries.

DPA estimates that 50 percent of the facilities expansion program, aided by certificates of necessity for rapid tax write-off, was in place on June 30.

PUBLICITY

Woman's Home Companion

The cover design of the November *Woman's Home Companion* magazine shows a handsome picture of canned apricots surrounding a thick slice of ham.

The picture is shown again as part of the article, "Lovely Meals In A Casserole," by Dorothy Kirk, food editor. Other canned foods used in the four casserole recipes are mixed vegetables, turkey, chicken, salmon, lima beans, cream of celery soup, and Chinese noodles.

Another article, "Ring the Changes On Four Thrifty Favorites," presents variations for some popular family standbys. Canned baked beans are teamed with sliced pineapple and sausages in one recipe, and with canned luncheon meat in another. A section of the article headed "Quick Soups" has the following canned foods: tomato soup, bouillon, mushrooms, cream of chicken soup, corn, pimiento, clams, pea soup, and vegetable juice cocktail.

Family Circle Magazine

Canned foods are featured in two articles in the November issue of *Family Circle* magazine.

One page of the article entitled "Old-Fashioned Feasting * * * New-Fashioned Fixing" by Julia Lee Wright, homemaking editor, shows a color photograph of "Nesselrode Holiday Pie," made with canned pumpkin. Canned tomato juice, consomme and

cranberry sauce are also featured in the Thanksgiving dinner plans.

A second article is "How Will You Have Your *Cranberry Sauce?*" It begins, "Open a can of tangy sauce—jellied, ready-to-slice, or the ruby-red whole fruit kind." Seven different ways to serve canned cranberry sauce are given "for you to choose for your Thanksgiving table." Canned pineapple is used with the cranberry sauce in two of the recipes.

Look Magazine

In "788 Cans a Year," the November 4 issue of *Look* magazine highlights the number and variety of canned foods used by the average American family. The article states:

"Last year, America's bountiful table was set with some 350 foods that came in more than 30,000,000,000 cans—an average of 788 cans per family."

A photograph illustrates the many cans used by the average family each year.

Look also points out that "no preservatives are used and canned fruits and vegetables are as nutritious as fresh-cooked varieties; it is as safe to keep food in the can it comes in—if cool and covered—as to empty the food into another container."

The article illustrates 18 can openers approved by the Can Manufacturers Institute and reports that "the cutting wheel on the average can opener travels about 1/10 of a mile each year."

"Dry Soups," which also appears in the same issue of *Look*, shows how canned soups may be made the basis for a "meal-in-a-bowl."

Invitations for Bids

✪ Quartermaster Purchasing Offices—111 East 16th Street, New York 3, N. Y.; 1819 West Pershing Road, Chicago 9, Ill.; Oakland Army Base, Oakland 14, Calif.

Veterans Administration—Procurement Division, Veterans Administration, Wash. 25, D. C.

The Walsh-Healey Public Contracts Act will apply to all operations performed after the date of notice of award if the total value of a contract is $10,000 or over.

The QMC has invited sealed bids to furnish the following:

CHILI CON CARNE WITHOUT BEANS—25,186 No. 10 cans. Bids due in Chicago under QM-11-009-53-42 by Nov. 10.

CORNED BEEF—150,000 pounds in No. 10 cans. Bids due in Chicago under QM-11-009-53-45 by Nov. 10.

HAM CHUNKS—193,467 dozen 30-oz. cans. Bids due in Chicago under QM-11-009-53-50 by Nov. 12.

Government Finality Clause

(Concluded from page 297)

representing suppliers to the government, had urged Congress to revoke by legislation the effect of the *United States v. Wunderlich* decision which had limited court review of the procuring department's decisions on questions of fact to instances in which fraud could be alleged and proved (see INFORMATION LETTER of March 29, page 136).

Following is the text of the revised disputes article as published in the *Federal Register* of November 1:

DISPUTES

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement shall be decided by the Contracting Officer, who shall reduce his decision to writing and mail or otherwise furnish a copy thereof to the Contractor. Within 30 days from the date of receipt of such copy, the Contractor may appeal by mailing or otherwise furnishing to the Contracting Officer a written appeal addressed to the Secretary, and the decision of the Secretary or his duly authorized representative for the hearing of such appeals shall, unless determined by a court of competent jurisdiction to have been fraudulent, arbitrary, capricious, or so grossly erroneous as necessarily to imply bad faith, be final and conclusive: *Provided*, That, if no such appeal is taken, the decision of the Contracting Officer shall be final and conclusive. In connection with any appeal proceeding under this clause, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Contractor shall proceed diligently with the performance of the contract and in accordance with the Contracting Officer's decision.

PERSONNEL

Florida Canners Association

The Florida Canners Association elected the following officers recently at the association's annual meeting:

President—H. R. Cloud, Minute Maid Corporation, Plymouth; first vice president—Ralph L. Miller, Plymouth Citrus Products Cooperative, Plymouth; second vice president—P. H. Fish, California Packing Corp., Tampa; treasurer—John Snively, Jr., Snively Groves, Inc., Winter Haven; and executive secretary—C. C. Rathbun, Tampa (reelected).

New Association Members

The following firms have been admitted into membership in the N.C.A. since September 13, 1952:

COWLITZ FISH CO., 615 S. Pacific Ave., Kelso, Wash. *Product*—Salmon. *Officer*—Lloyd Dixon, owner.

ILWACO FISH CO., Ilwaco, Wash. *Product*—Tuna. *Officer*—Leo Reubinstein, partner.

N. E. THOMPSON CO., P. O. Box 458, Kake, Alaska. *Product*—Crab meat.

H. R. Smith Author of Chapter

Howard R. Smith of the N.C.A. Washington Research Laboratories is author of a chapter in a book just published by The American Society of Refrigerating Engineers.

The chapter by Mr. Smith deals with "Storage of Canned Foods" and appears in the fourth edition of *Refrigerating Data Book*. The chapter points out that canned foods are not ordinarily stored under refrigeration and describes the effects of cold temperatures on food contents and containers.

The book is one of a continuous series of volumes published by the Society since 1932. Its contents are intended to cover the use of refrigeration and refrigeration machinery.

SUPPLIES

Shipments of Glass Containers

Shipments of glass containers for food during the first nine months of 1952 have exceeded the volume shipped during the same period of 1951, on the basis of reports by the Bureau of the Census, U. S. Department of Commerce.

Shipments of both wide-mouth and narrow-neck food containers exceeded last year's volume for each of the months April through September.

	Jan. through Sept. 1951	1952
	(quantities expressed in gross)	
Wide-mouth food (including fruit jars and jelly glasses)	20,780,521	22,193,351
Narrow-neck food	9,129,859	9,320,566
Beverage, nonreturnable	144,274	331,224

FOREIGN TRADE

Venezuelan Import Licensing

Venezuelan import licensing has been abolished for tomato preparations, according to the November 3 issue of *Foreign Commerce Weekly*, official publication of the U. S. Department of Commerce.

Import duties on tomato products have been increased (see INFORMATION LETTER of October 18, page 284).

Scope of 7(b)(3) Exemption

(Concluded from page 297)

published in the *Federal Register* of October 24:

TITLE 29—LABOR

Chapter V—Wage and Hour Division, Department of Labor

PART 526—INDUSTRIES OF A SEASONAL NATURE

DETERMINATION THAT HANDLING, PACKING, STORING, PREPARING IN THEIR RAW OR NATURAL STATE, FIRST PROCESSING OR CANNING OF PERISHABLE OR SEASONAL FRESH FRUITS OR VEGETABLES ARE INDUSTRIES OF A SEASONAL NATURE

On August 24, 1940 (5 F. R. 3167) the Administrator of the Wage and Hour Division issued a determination that the "first processing" of perishable or seasonal fresh fruits and vegetables is part of an industry of a seasonal nature within the meaning of section 7(b)(3) of the Fair Labor Standards Act. When this determination was issued, it was the position of the Division that the term "first processing" did not include by-product operations. This construction was in accordance with the Division's interpretation of the term for purposes of the exemption provided for first processing fresh fruits and vegetables in section 7(c) of the act.

Certain modifications and clarifications were made in the Department of Labor's interpretation of "first processing" as used in section 7(c) of the act on August 30, 1952 (17 F. R. 7929). As there stated, an employer who commences first processing operations on a perishable or seasonal fresh fruit or vegetable is, for the purpose of section 7(c), considered engaged in "first processing" throughout each series of operations, including by-product operations, which commence with the initial processing of fresh fruits or vegetables and are performed in the same place of employment as a continuous series of operations during which the commodities remain perishable.

Although the Department has adopted this modified position with regard to the section 7(c) exemption it is not the intention to extend the determination of August 24, 1940, referred to above, beyond its original scope. In order to make this intention clear on the face of the determination and to avoid any possible misconstruction, the determination of August 24, 1940, should be amended to indicate more clearly the original meaning of "first processing."

In order to accomplish this purpose notice is hereby given that paragraph 5 of the Administrator's determination published in the FEDERAL REGISTER on August 24, 1940 (5 F. R. 3167) is amended by adding at the end thereof, the following sentence: "As used in this determination, the first processing of perishable or seasonal fresh fruits or vegetables includes the initial operation which changes the form of the whole fresh fruit or vegetable and all operations on its main portions when performed in a single process as a continuous series of operations throughout which the commodity remains perishable, but does not include by-product operations."

In view of the fact that this amendment is intended only to clarify the application of the determination referred to above it has been concluded that the public procedure and notice requirements of section 4 of the Administrative Procedure Act need not be complied with. Accordingly, this amendment will become effective upon publication in the FEDERAL REGISTER.

(52 Stat. 1060; 29 U.S.C. 201-219)

Signed at Washington, D. C., this 17th day of October 1952.

WM. R. MCCOMB,

Administrator, Wage and Hour and Public Contracts Divisions.

Forthcoming Meetings

November 10-11—Wisconsin Canners Association, 48th Annual Convention, Schroeder Hotel, Milwaukee

November 13-14—Association of Food Industry Sanitarians, Inc., Annual Business Meeting and Conference, Sainte Claire Hotel, San Jose, Calif.

November 15—Northwest Branch, National Canners Association, Annual Meeting of Advisory Board, together with 30th Annual Meeting of Association of Pacific Fisheries, Fairmont Hotel, San Francisco

November 20-21—Indiana Canners Association, Annual Convention, French Lick Springs Hotel, French Lick Springs

November 24-25—Pennsylvania Canners Association, 38th Annual Convention, Penn-Harris Hotel, Harrisburg

December 1-2—Michigan Canners Association, Fall Meeting, Pantlind Hotel, Grand Rapids

December 2—Maine Canners Association, Annual Meeting, Falmouth Hotel, Portland

December 2-3—Ohio Canners Association, Annual Convention, The Neil House, Columbus

December 4-5—Georgia Canners Association, Annual Meeting, Biltmore Hotel, Atlanta

December 4-5—New York State Canners and Freezers Association, Inc., 67th Annual Convention, Hotel Statler, Buffalo

December 4-5—Tri-State Packers Association, 49th Annual Convention, Haddon Hall, Atlantic City, N. J.

December 9—Minnesota Canners Association, Annual Meeting, Hotel Radisson, Minneapolis

January 19-20—Northwest Canners Association, Annual Convention, Olympic Hotel, Seattle, Wash.

January 22-23—Canners League of California, Annual Fruit and Vegetable Sample Cutting, Hotel Fairmont, San Francisco

February 4-5—Minnesota Canners Association, Sixth Annual Canners' and Fieldmen's Short Course, Curtis Hotel, Minneapolis

February 16-18—Canadian Food Processors Association, Annual Convention, Victoria, B. C.

February 17-20—National-American Wholesale Grocers Association, Annual Convention—Supplier and Customer Conferences Exhibit, The Morrison, Chicago

February 19-20—National Pickle Packers Association, Winter Meeting, Sheraton Hotel, Chicago

February 21-25—Annual Conventions of National Canners Association, National Food Brokers Association, and Canning Machinery & Supplies Association, Chicago

February 27-28—Virginia Canners Association, Annual Meeting, Hotel Roanoke, Roanoke

March 5-6—Ozark Canners Association, 45th Annual Convention, Colonial Hotel, Springfield, Mo.

March 13-14—Utah Canners Association, 41st Annual Convention, Hotel Utah, Salt Lake City

March 23-24—Canners League of California, 49th Annual Directors Conference, Santa Barbara Biltmore, Santa Barbara

April 19-22—United States Wholesale Grocers Association, Convention and Exposition, New Orleans

TABLE OF CONTENTS

PAGE

Labor

Wage-hour division limits scope of 7(b)(3) exemption 297

Meetings

N.C.A. speakers address state association meetings 297
Forthcoming meetings 300

Procurement

Government finality clause 297
Invitations for bids 299

Defense

Wage stabilization exemptions ... 297
Metal can expansion goals 297
Certificates of necessity 298

PAGE

Statistics

Expenditures for new plant and equipment in 1952 298
Sales and inventories 298
Canned foods price index 298

Publicity

Woman's Home Companion 298
Family Circle magazine 298
Look magazine 299

Personnel

Florida Canners Association ... 299
New Association members 299
H. R. Smith author of chapter ... 299

Supplies

Shipments of glass containers ... 299

Foreign Trade

Venezuelan import licensing 299